

Senate Bill No. 508

Passed the Senate September 1, 2015

Secretary of the Senate

Passed the Assembly August 31, 2015

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 99233.3, 99234, 99247, 99268.2, 99268.3, 99268.4, 99268.17, and 99268.19 of, and to amend, repeal, and add Section 99314.6 of, the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 508, Beall. Transportation funds: transit operators: pedestrian safety.

(1) Existing law provides various sources of funding to public transit operators. Under the Mills-Alquist-Deddeh Act, also known as the Transportation Development Act, revenues from a $\frac{1}{4}\%$ sales tax in each county are available, among other things, for allocation by the transportation planning agency to transit operators, subject to certain financial requirements for an operator to meet in order to be eligible to receive funds. Existing law sets forth alternative ways an operator may qualify for funding, including a standard under which the allocated funds do not exceed 50% of the operator's total operating costs, as specified, or the maintenance by the operator of a specified farebox ratio of fare revenues to operating costs. Existing law authorizes an operator to satisfy the applicable ratio of fare revenues to operating costs by supplementing its fare revenues with local funds, as defined. Existing law generally establishes the required farebox ratio as 20% in urbanized areas and 10% in nonurbanized areas, except that an operator that exceeded those percentages in the 1978–79 fiscal year is required to maintain the higher farebox ratios in order to remain eligible for funding. Existing law provides various exceptions to the definition of “operating cost” for these purposes.

This bill would delete the requirement for transit operators to maintain higher farebox requirements based on the 1978–79 fiscal year. The bill would exempt additional categories of expenditures from the definition of “operating cost” used to determine compliance with required farebox ratios, including, among others, certain fuel, insurance, and claims settlement cost increases beyond the change in the Consumer Price Index. The bill would also exempt startup costs for new transit services for up to 2 years. The

bill would revise the definition of local funds. The bill would revise the definition of “operating cost” for performance audit and certain other purposes to exclude principal and interest payments on capital projects funded with certificates of participation.

(2) The Mills-Alquist-Deddeh Act, also known as the Transportation Development Act, also generally requires the allocation of 2% of available funds to cities and counties for facilities for bicycles and pedestrians. Existing law provides that a city or county may expend up to 5% of its bicycle and pedestrian allocation to supplement moneys from other sources to fund bicycle safety education programs, as long as this amount is not used to fully fund the salary of any one person.

This bill would also authorize the funding of pedestrian safety education programs from the 5% amount.

(3) Existing law creates the State Transit Assistance program, under which certain revenues in the Public Transportation Account are allocated by formula for public transportation purposes. Under that program, after the 2015–16 fiscal year, funds may not be allocated to a transit operator for operating purposes unless the operator meets certain efficiency standards. Compliance with the efficiency standards is based on whether the operator’s total operating cost per revenue vehicle hour is increasing by no more than the Consumer Price Index, as specified. Existing law imposes no restrictions on allocations of funds for capital purposes. Existing law provides for funds withheld from an operator to be retained by the allocating transportation planning agency for allocation in a later year if the operator can subsequently meet the efficiency standards, and in certain cases, provides for the funds to be reallocated to other transit purposes, or to revert to the Controller.

This bill, commencing July 1, 2016, rather than making an operator ineligible to receive State Transit Assistance program funds for operating purposes for an entire year for failing to meet the efficiency standards, would instead reduce the operator’s operating allocation by a specified percentage, based on the percentage amount that the operator failed to meet the efficiency standards, as specified. The bill, on that date, would delete provisions related to funds withheld, reallocated, or reverted by the transportation planning agency.

The people of the State of California do enact as follows:

SECTION 1. Section 99233.3 of the Public Utilities Code is amended to read:

99233.3. Two percent of the remaining money in the fund shall be made available to counties and cities for facilities provided for the exclusive use of pedestrians and bicycles unless the transportation planning agency finds that the money could be used to better advantage for the purposes stated in Article 4 (commencing with Section 99260) and Article 4.5 (commencing with Section 99275), or for local street and road purposes in those areas where the money may be expended for those purposes, in the development of a balanced transportation system. Of the amount made available to a city or county pursuant to this section, 5 percent thereof may be expended to supplement moneys from other sources to fund bicycle and pedestrian safety education programs, but shall not be used to fully fund the salary of any one person.

SEC. 2. Section 99234 of the Public Utilities Code is amended to read:

99234. (a) Claims for facilities provided for the exclusive use of pedestrians and bicycles or for bicycle and pedestrian safety education programs shall be filed according to the rules and regulations adopted by the transportation planning agency.

(b) The money shall be allocated for the construction, including related engineering expenses, of those facilities pursuant to procedures or criteria established by the transportation planning agency for the area within its jurisdiction, or for bicycle and pedestrian safety education programs.

(c) The money may be allocated for the maintenance of bicycling trails that are closed to motorized traffic pursuant to procedures or criteria established by the transportation planning agency for the area within its jurisdiction.

(d) The money may be allocated without respect to Section 99231 and shall not be included in determining the apportionments to a city or county for purposes of Sections 99233.7 to 99233.9, inclusive.

(e) Facilities provided for the use of bicycles may include projects that serve the needs of commuting bicyclists, including, but not limited to, new trails serving major transportation corridors,

secure bicycle parking at employment centers, park and ride lots, and transit terminals where other funds are unavailable.

(f) Notwithstanding any other provision of this section, a planning agency established in Title 7.1 (commencing with Section 66500) of the Government Code may allocate the money to the Association of Bay Area Governments for activities required by Chapter 11 (commencing with Section 5850) of Division 5 of the Public Resources Code.

(g) Notwithstanding any other provision of this section, the transportation planning agencies that allocate funds, pursuant to this section, to the cities and counties with jurisdiction or a sphere of influence within the delta, as defined in Section 5852 of the Public Resources Code, may allocate the money to the Delta Protection Commission for activities required by Chapter 12 (commencing with Section 5852) of Division 5 of the Public Resources Code.

(h) Within 30 days after receiving a request for a review from any city or county, the transportation planning agency shall review its allocations made pursuant to Section 99233.3.

(i) In addition to the purposes authorized in this section, a portion of the amount available to a city or county pursuant to Section 99233.3 may be allocated to develop a comprehensive bicycle and pedestrian facilities plan, with an emphasis on bicycle projects intended to accommodate bicycle commuters rather than recreational bicycle users. An allocation under this subdivision may not be made more than once every five years.

(j) Up to 20 percent of the amount available each year to a city or county pursuant to Section 99233.3 may be allocated to restripe class II bicycle lanes.

SEC. 3. Section 99247 of the Public Utilities Code is amended to read:

99247. For purposes of Section 99246, and as used elsewhere in this article:

(a) “Operating cost” means all costs in the operating expense object classes exclusive of the costs in the depreciation and amortization expense object class of the uniform system of accounts and records adopted by the Controller pursuant to Section 99243. “Operating cost” excludes all subsidies for commuter rail services operated on railroad lines under the jurisdiction of the Federal Railroad Administration, all direct costs for providing

charter services, all vehicle lease costs, and principal and interest payments on capital projects funded with certificates of participation.

(b) “Operating cost per passenger” means the operating cost divided by the total passengers.

(c) “Operating cost per vehicle service hour” means the operating cost divided by the vehicle service hours.

(d) “Passengers per vehicle service hour” means the total passengers divided by the vehicle service hours.

(e) “Passengers per vehicle service mile” means the total passengers divided by the vehicle service miles.

(f) “Total passengers” means the number of boarding passengers, whether revenue producing or not, carried by the public transportation system.

(g) “Transit vehicle” means a vehicle, including, but not limited to, one operated on rails or tracks, which is used for public transportation services funded, in whole or in part, under this chapter.

(h) “Vehicle service hours” means the total number of hours that each transit vehicle is in revenue service, including layover time.

(i) “Vehicle service miles” means the total number of miles that each transit vehicle is in revenue service.

(j) “Vehicle service hours per employee” means the vehicle service hours divided by the number of employees employed in connection with the public transportation system, based on the assumption that 2,000 person-hours of work in one year constitute one employee. The count of employees shall also include those individuals employed by the operator which provide services to the agency of the operator responsible for the operation of the public transportation system even though not employed in that agency.

SEC. 4. Section 99268.2 of the Public Utilities Code is amended to read:

99268.2. In the case of an operator required to be in compliance with Section 99268 under Section 99268.1, the operator may be allocated additional funds that could not be allocated to it because of those requirements, if it maintains, for the fiscal year, a ratio of fare revenues to operating cost, as defined by subdivision (a) of

Section 99247, at least equal to one-fifth if serving an urbanized area or one-tenth if serving a nonurbanized area.

SEC. 5. Section 99268.3 of the Public Utilities Code is amended to read:

99268.3. (a) In the case of an operator that is serving an urbanized area, and that was eligible for funds under this article during the 1978–79 fiscal year even though not required to be in compliance with Section 99268 or that commenced operation after that fiscal year, the operator shall be eligible for those funds in any fiscal year, commencing with claims for the 1980–81 fiscal year, if it maintains, for the fiscal year, a ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, at least equal to one-fifth.

(b) In the case of an operator that is serving an urbanized area, and that was in operation during the 1978–79 fiscal year even though not then eligible for funds under this article, but that has since become eligible for those funds, the operator shall be eligible for the funds in any fiscal year, commencing with the 1980–81 fiscal year, if it complies with either of the following:

- (1) The requirements of Section 99268.
- (2) The requirements of subdivision (a).

SEC. 6. Section 99268.4 of the Public Utilities Code is amended to read:

99268.4. In the case of an operator that is serving a nonurbanized area, and that was eligible for funds under this article during the 1978–79 fiscal year even though not required to be in compliance with Section 99268 or that commenced operation after that fiscal year, the operator shall be eligible for those funds in any fiscal year, commencing with claims for the 1980–81 fiscal year, if it maintains, for the fiscal year, a ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, at least equal to one-tenth.

SEC. 7. Section 99268.17 of the Public Utilities Code is amended to read:

99268.17. (a) Notwithstanding subdivision (a) of Section 99247, the following costs shall be excluded from the definition of “operating cost” for the purposes of calculating any required ratios of fare revenues to operating cost specified in this article:

- (1) The additional operating costs required to provide comparable complementary paratransit service as required by

Section 37.121 of Title 49 of the Code of Federal Regulations, pursuant to the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as identified in the operator's paratransit plan pursuant to Section 37.139 of Title 49 of the Code of Federal Regulations that exceed the operator's costs required to provide comparable complementary paratransit service in the prior year as adjusted by the Consumer Price Index.

(2) Cost increases beyond the change in the Consumer Price Index for all of the following:

- (A) Fuel.
 - (B) Alternative fuel programs.
 - (C) Power, including electricity.
 - (D) Insurance premiums and payments in settlement of claims arising out of the operator's liability.
 - (E) State and federal mandates.
- (3) Startup costs for new services for a period of not more than two years.

(b) The exclusion of costs from the definition of operating costs in subdivision (a) applies solely for the purpose of this article and does not authorize an operator to report an operating cost other than as defined in subdivision (a) of Section 99247 or a ratio of fare revenue to operating cost other than as that ratio is described elsewhere in this article, to any of the following entities:

- (1) The Controller pursuant to Section 99243.
- (2) The entity conducting the fiscal audit pursuant to Section 99245.
- (3) The entity conducting the performance audit pursuant to Section 99246.

SEC. 8. Section 99268.19 of the Public Utilities Code is amended to read:

99268.19. If fare revenues are insufficient to meet the applicable ratio of fare revenues to operating cost required by this article, an operator may satisfy that requirement by supplementing its fare revenues with local funds. As used in this section, "local funds" means any nonfederal or nonstate grant funds or other revenues generated by, earned by, or distributed to an operator.

SEC. 9. Section 99314.6 of the Public Utilities Code is amended to read:

99314.6. (a) Except as provided in Section 99314.7, the following eligibility standards apply:

(1) Except as provided in paragraph (2), funds shall not be allocated for operating purposes pursuant to Sections 99313 and 99314 to an operator unless the operator meets either of the following efficiency standards:

(A) The operator's total operating cost per revenue vehicle hour in the latest year for which audited data are available does not exceed the sum of the preceding year's total operating cost per revenue vehicle hour and an amount equal to the product of the percentage change in the Consumer Price Index for the same period multiplied by the preceding year's total operating cost per revenue vehicle hour.

(B) The operator's average total operating cost per revenue vehicle hour in the latest three years for which audited data are available does not exceed the sum of the average of the total operating cost per revenue vehicle hour in the three years preceding the latest year for which audited data are available and an amount equal to the product of the average percentage change in the Consumer Price Index for the same period multiplied by the average total operating cost per revenue vehicle hour in the same three years.

(2) The transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be, shall adjust the calculation of operating costs and revenue vehicle hours pursuant to paragraph (1) to account for either or both of the following factors:

(A) Exclusion of costs increases beyond the change in the Consumer Price Index for fuel; alternative fuel programs; power, including electricity; insurance premiums and payments in settlement of claims arising out of the operator's liability; or state or federal mandates, including the additional operating costs required to provide comparable complementary paratransit service as required by Section 37.121 of Title 49 of the Code of Federal Regulations, pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as identified in the operator's paratransit plan pursuant to Section 37.139 of Title 49 of the Code of Federal Regulations.

(B) Exclusion of startup costs for new services for a period of not more than two years.

(3) Funds withheld from allocation to an operator pursuant to paragraph (1) shall be retained by the transportation planning

agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be, for reallocation to that operator for two years following the year of ineligibility. In a year in which an operator's funds are allocated pursuant to paragraph (1), funds withheld from allocation during a preceding year shall also be allocated. Funds not allocated before the commencement of the third year following the year of ineligibility shall be reallocated to cost effective high priority regional transit activities, as determined by the transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be. If that agency or commission, or the board, determines that no cost effective high priority regional transit activity exists, the unallocated funds shall revert to the Controller for reallocation.

(b) As used in this section, the following terms have the following meanings:

(1) "Operating cost" means the total operating cost as reported by the operator under the Uniform System of Accounts and Records, pursuant to Section 99243 and subdivision (a) of Section 99247.

(2) "Revenue vehicle hours" has the same meaning as "vehicle service hours," as defined in subdivision (h) of Section 99247.

(3) "Consumer Price Index," as applied to an operator, is the regional Consumer Price Index for that operator's region, as published by the United States Bureau of Labor Statistics. If a regional index is not published, the index for the State of California applies.

(4) "New service" has the same meaning as "extension of public transportation services" as defined in Section 99268.8.

(c) The restrictions in this section do not apply to allocations made for capital purposes.

(d) The exclusion of costs increases described in paragraph (2) of subdivision (a) applies solely for the purpose of calculating an operator's eligibility to claim funds pursuant to this section and does not authorize an operator to report an operating cost per revenue vehicle hour other than as described in this section and in Section 99247, to any of the following entities:

(1) The Controller pursuant to Section 99243.

(2) The entity conducting the fiscal audit pursuant to Section 99245.

(3) The entity conducting the performance audit pursuant to Section 99246.

(e) The restrictions in this section shall not apply to the allocation of funds made pursuant to Sections 99313 and 99314 after January 1, 2010, and through the 2015–16 fiscal year.

(f) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. Section 99314.6 is added to the Public Utilities Code, to read:

99314.6. (a) Except as provided in Section 99314.7, the following eligibility standards apply:

(1) Except as provided in paragraph (3), funds shall be allocated for operating or capital purposes pursuant to Sections 99313 and 99314 to an operator if the operator meets either of the following efficiency standards:

(A) The operator shall receive its entire allocation, and any or all of this allocation may be used for operating purposes, if the operator's total operating cost per revenue vehicle hour in the latest year for which audited data are available does not exceed the sum of the preceding year's total operating cost per revenue vehicle hour and an amount equal to the product of the percentage change in the Consumer Price Index for the same period multiplied by the preceding year's total operating cost per revenue vehicle hour.

(B) The operator shall receive its entire allocation, and any or all of this allocation may be used for operating purposes, if the operator's average total operating cost per revenue vehicle hour in the latest three years for which audited data are available does not exceed the sum of the average of the total operating cost per revenue vehicle hour in the three years preceding the latest year for which audited data are available and an amount equal to the product of the average percentage change in the Consumer Price Index for the same period multiplied by the average total operating cost per revenue vehicle hour in the same three years.

(2) If an operator does not meet either efficiency standard under paragraph (1), the operator shall receive its entire allocation and the funds shall be allocated pursuant to this paragraph. The portion of the allocation that the operator may use for operations shall be the total allocation to the operator reduced by the lowest percentage

by which the operator's total operating cost per revenue vehicle hour for the applicable year or three-year period calculated pursuant to subparagraph (A) or (B) of paragraph (1) exceeded the target amount necessary to meet the applicable efficiency standard. The remaining portion of the operator's allocation shall be used only for capital purposes.

(3) The transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be, shall adjust the calculation of operating costs and revenue vehicle hours pursuant to paragraph (1) to account for either or both of the following factors:

(A) Exclusion of cost increases beyond the change in the Consumer Price Index for fuel; alternative fuel programs; power, including electricity; insurance premiums and payments in settlement of claims arising out of the operator's liability; or state or federal mandates, including the additional operating costs required to provide comparable complementary paratransit service as required by Section 37.121 of Title 49 of the Code of Federal Regulations, pursuant to the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as identified in the operator's paratransit plan pursuant to Section 37.139 of Title 49 of the Code of Federal Regulations.

(B) Exclusion of startup costs for new services for a period of not more than two years.

(b) As used in this section, the following terms have the following meanings:

(1) "Operating cost" means the total operating cost as reported by the operator under the uniform system of accounts and records, pursuant to Section 99243 and subdivision (a) of Section 99247.

(2) "Revenue vehicle hours" has the same meaning as "vehicle service hours," as defined in subdivision (h) of Section 99247.

(3) "Consumer Price Index," as applied to an operator, is the regional Consumer Price Index for that operator's region, as published by the United States Bureau of Labor Statistics. If a regional index is not published, the index for the State of California applies.

(4) "New service" has the same meaning as "extension of public transportation services" as defined in Section 99268.8.

(c) The restrictions in this section do not apply to allocations made for capital purposes.

(d) The exclusion of cost increases described in paragraph (3) of subdivision (a) applies solely for the purpose of calculating an operator's eligibility to claim funds pursuant to this section and does not authorize an operator to report an operating cost per revenue vehicle hour, other than as described in this section and in Section 99247, to any of the following entities:

- (1) The Controller pursuant to Section 99243.
 - (2) The entity conducting the fiscal audit pursuant to Section 99245.
 - (3) The entity conducting the performance audit pursuant to Section 99246.
- (e) This section shall become operative on July 1, 2016.

Approved _____, 2015

Governor